



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042-8884-02; RTID 0648-XA627]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; fishery reopening.

SUMMARY: NMFS reopens the General category fishery for two days within the October through November 2020 General category subquota period. This action is intended to provide a reasonable opportunity to harvest the full annual U.S. bluefin tuna (BFT) quota without exceeding it, while maintaining an equitable distribution of fishing opportunities across time periods. This action applies to Atlantic tunas General category (commercial) permitted vessels and Atlantic Highly Migratory Species (HMS) Charter/Headboat category permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

DATES: Effective 12:30 a.m., local time, November 7, 2020, through 11:30 p.m., local time, November 8, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Nicholas Velseboer, 978-281-9260, or Larry Redd, 301-427-8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota

recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The current baseline General and Reserve category quotas are 555.7 mt and 29.5 mt, respectively. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a “subquota” or portion of the annual General category quota. The baseline subquotas for each time period are as follows: 29.5 mt for January; 277.9 mt for June through August; 147.3 mt for September; 72.2 mt for October through November; and 28.9 mt for December. Any unused General category quota rolls forward from one time period to the next, and is available for use in subsequent time periods. To date, NMFS has taken several actions that resulted in adjustments to the General and Reserve category quotas (85 FR 17, January 2, 2020; 85 FR 6828, February 6, 2020; 85 FR 43148, July 16, 2020; 85 FR 59445, September 22, 2020; 85 FR 61872, October 1, 2020; 85 FR 64411, October 13, 2020; and 85 FR 68798, October 30, 2020). In the most recent action (85 FR 68798), NMFS reopened the General category fishery for two days, October 28 and 29, 2020.

General Category Reopening

As of November 4, 2020, preliminary landings data indicate that the General category landed 103.5 mt before closing. This represents 81 percent of the adjusted October through November subquota of 127.7 mt. Under regulations at § 635.28(a)(2), NMFS may reopen the fishery if NMFS determines that reasonable fishing opportunities

are available. Based on average October landings rates, NMFS has determined that reopening the General category fishery for two days is appropriate given the amount of unused October through November subquota (*i.e.*, 24.2 mt); depending on weather conditions and fish availability, a longer reopening could risk exceeding the unused quota available for the October through November subquota period. NMFS will need to account for 2020 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that. NMFS anticipates that General category participants in all areas and time periods will have opportunities to harvest the General category quota in 2020, through active inseason management such as the timing of quota transfers, as practicable. Thus, this action would allow fishermen to take advantage of the availability of fish on the fishing grounds to the extent consistent with the available amount of quota and other management objectives, while avoiding quota exceedance.

Therefore, the General category fishery will reopen at 12:30 a.m., November 7, 2020, and close at 11:30 p.m., November 8, 2020. The General category daily retention limit during this reopening remains the same as prior to closing: one large medium or giant (*i.e.*, measuring 73 inches (185 cm) curved fork length or greater) bluefin tuna per vessel per day/trip. This action applies to Atlantic tunas General category (commercial) permitted vessels and HMS Charter/Headboat category permitted vessels with a commercial sale endorsement when fishing commercially for BFT. Retaining, possessing, or landing large medium or giant BFT by persons aboard vessels permitted in the General and HMS Charter/Headboat categories must cease at 11:30 p.m. local time on November 8, 2020.

The General category will automatically reopen December 1, 2020, for the December 2020 subquota time period (consistent with regulations at § 635.27(a)(1)) at the default one-fish level. In January 2020, NMFS adjusted the General category base

subquota for the December 2020 period to 9.4 mt (85 FR 17, January 2, 2020). Based on quota availability in the Reserve, NMFS may consider transferring additional quota to the December subquota period, as appropriate.

Fishermen may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at <https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure/>.

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS’ ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing hmspermits.noaa.gov, using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available subquotas are not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978)

281-9260, or access *hmspermits.noaa.gov*, for updates on quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is authorized by 50 CFR 635.28(a)(2), which was issued pursuant to section 304(c), and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice of, and an opportunity for public comment on, this action for the following reasons: The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to reopen the fishery is impracticable and contrary to the public interest. The General category recently closed, but based on available BFT quotas, fishery performance in recent weeks, and the availability of BFT on the fishing grounds, responsive reopening of the fishery is warranted to allow fishermen to take advantage of availability of fish and of quota. NMFS could not have proposed this action earlier, as it needed to consider and respond to updated data and information about fishery conditions and this year's landings. If NMFS was to offer a public comment period now, after having appropriately considered that data, it would preclude fishermen from harvesting BFT that are legally available. This action does not raise conservation and management concerns. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: November 4, 2020.

Jennifer M. Wallace,

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National Marine Fisheries Service.

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